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SUBJECT: BRAZILIAN GOVERNMENT BEGINS TO LOOK AT OFFSETS FOR ITS LARGE-SCALE PURCHASES

1. Summary. On October 4-5 in Brasilia, the Foreign Ministry hosted an International Seminar on Commercial, Industrial and Technological Offsets (i.e., conditioning a government purchase on some quid pro quo on the part of the vendor). The seminar sought to identify the legal principles underpinning offset practices and to discuss ways to develop awareness within the government and private sector on how to take advantage of offset opportunities. The target audience for the seminar was officials within the Ministries of Defense, Foreign Relations, Development and Trade, Science and Technology, Planning, and Finance, as well as research center executives and import and export companies. In addition, country representatives from Spain, South Africa, Portugal, the United States (private sector), the Netherlands, and the United Kingdom also participated.

2. The seminar opened by citing the importance of offsets nowadays for governments and noting that most offsets take place in the defense sector. Conference participants concluded that Brazil lagged far behind other countries in seeking offsets and that there was a lack of understanding within the government of what offsets were and how they could be used by government ministries. Currently, the Brazilian Government has no offset policy, no database of companies which provide offsets, no centralized office to coordinate government procurement, and no offset legislation in place. End Summary.

#### Foreign Offset Practices

3. Spain. Conference participant Henrique Goncalo Navarro Gil (Deputy Counselor for Industrial Management Cooperation within Spain's Defense Ministry) stated that in Spain offsets are under the umbrella of the defense ministry, as it is the case in most countries. According to Navarro, offsets are a great tool for developing negotiating skills and multinational corporations are much more open now than ever before to including offsets when they deal with governments. "We should see more offset dealings, as this is a trend that will continue for the foreseeable future" said Navarro.

4. South Africa. Sipho Zikode (Chief Director of the Industrial Participation Secretariat within South Africa's Commerce and Trade Ministry) pointed out that offsets are a good mechanism for obtaining technology from foreign corporations. Zikode noted the importance of maintaining a consistent policy on offsets for as long as 25-30 years in order to show multinational corporations the emphasis the government placed in this area. According to Zikode, there are two large ongoing offset programs in South Africa: the national industrial program and the defense industrial program. These programs apply all government foreign purchases and are used as a tool to develop strategic partnership agreements with foreign corporations. Most importantly, they are used to leverage economic benefits and help develop of South African industry by more effectively utilizing the instrument of the government procurement. Target sectors are: clothing, textiles, automotives, aviation and aerospace, agro-processing, metal and minerals, chemicals, biotechnology, defense, information and communications.

5. Portugal. Rui Augusto (President of the Portuguese Ministry of Economy's Office Committee) stated that his country's offsets focus on the defense sector, where the government has been able to develop and implement a series of deals during the past decade. Its practices and objectives, he said, were similar to South Africa.

6. European Union. A question was raised from the audience regarding the EU position on offsets. A private sector representative from the Netherlands answered, noting that this was a very sensitive issue as it dealt with defense, technology transfer, and intellectual property rights. For now, the EU has no policy authorizing offsets, although

things might change in the future as the EU Commission is increasingly examining the practices of its members in the field of defense.

17. United States. An audience member immediately posed a follow-up question inquiring about U.S. offset policy: was it determined by the government or market driven? The Managing Director of a U.S.-based offset company (Industrial Participation Projects LLC) responded that at this time there was no overarching U.S. policy and that he didn't see one coming about for a few years.

#### Commercial Promotion and Market Access in Brazil -----

18. Maria Elisa Rabello Maia, Deputy Chief of the Market Access Division in the Brazilian Ministry of Foreign Affairs spoke about the current state of offsets in Brazil. She noted that while Brazil is not willing to participate in market access discussions for government procurement in WTO, the country is an active member of the transparency debate group. Her rationale was that Brazilian companies are unprepared to compete with foreigners. According to Maia, Brazilian companies are hesitant to take the steps necessary to gain access to foreign markets. Asked about the time line in which she sees Brazil institutionalizing offset practices, she replied: "it won't happen in the short to medium term". Brazilians are mainly using offsets in the defense sector through a 30-year old Air Force program. However, Embraer, the Brazilian airline manufacturer, is now (successfully) taking the lead in using offsets in the private sector.

19. Maia said that draft offset legislation has been discussed at the ministerial level, and by the beginning of 2006 the Ministry of Foreign Affairs will seek the President's approval to submit the bill to Congress (though no vote on any law is expected until 2007 at the earliest).

10. The Industrial Participation Projects representative stated that Colombia and other Latin America countries are developing good offset programs and Brazil should do the same. He emphasized the importance of offsets for promoting trade and gaining market access; eighty-four countries participate in offset programs worldwide. (Purportedly, the first case of offset compensation took place in 1851 when Samuel Colt sought to sell revolvers to the British. The British would only buy the guns if the manufacturing plant was located in England.) He concluded by noting that even if the WTO limits offsets, companies will still use them because they can be an effective development and marketing tool.

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